

REMARKS1. STATUS OF CLAIMS

Claims 42-72 are currently pending. Claims 49 and 66 have been amended.

2. CLAIM REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 49, 51-56 and 66-72 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 49 has been amended to recite “A stent comprising: a flexible connector for connecting loops of adjacent vertical meander patterns of the stent ...” As amended, a flexible connector and adjacent vertical meander patterns are now part of the claimed combination. Applicants respectfully request withdrawal of this rejection.

With respect to claims 52 and 66, applicants respectfully traverse this rejection. Applicants direct the Examiner to paragraphs 0022 and 0023 and Figures 1-4. Applicants have not used the terms “even” and “odd” as they are ordinarily defined. Instead, “even” and “odd” refer to meander patterns “which are 180° out of phase with each other.” Applicants submit that the meaning of the terms “even” and “odd” as used in the pending claims is consistent with the definition set forth in the specification. Accordingly, applicants respectfully request withdrawal of this rejection.

Claim 66 has been amended to recite “wherein the first and second meander patterns are interconnected to form at least one cell having only two loops of the first meander patterns between each pair of second meander patterns”. Applicants respectfully request withdrawal of this rejection as the amended claim is now specifically directed to at least one cell of the stent, and not necessarily the entire length of the stent.

Applicants have responded in detail for every claim which the Examiner has set forth a specific indefiniteness rejection. Without a detailed reason as to why the Examiner has rejected the remaining claims as being indefinite, applicants cannot adequately respond. For this reason, applicants respectfully request that the Examiner withdraws the indefinite rejection for all pending claims. Alternatively, if the Examiner wishes to set forth a reason why the other claims have been rejected as being indefinite, applicants would be happy to respond at that time.

3. CLAIM REJECTIONS UNDER 35 U.S.C. § 102(e) AND § 103(a)

Claims 42, 44-49, 51, 57-60, 63-69 and 72 stand rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Pinchasik et al. (5,449,373) (“Pinchasik”). Applicants respectfully traverse this rejection.

Pinchasik describes a stent with rigid sections linked by flexible connectors. Pinchasik fails to disclose a plurality of continuous serpentine sections as suggested by the Examiner. Instead, the Examiner has highlighted a portion of an expanded diamond-shaped cell. In contrast, applicants’ invention teaches discrete serpentine rings connected by flexible connectors. Pinchasik does not describe such discrete serpentine rings, but rather a stent with rigid portions joined by flexible connectors. For at least this reason, applicants respectfully request withdrawal of this rejection.

Applicants further disagree that the “cells” of Pinchasik identified by the Examiner “will inherently still be generally uniformly sized in the bend since any difference between the cell sizes will be relatively small, particularly in a small bend.” This is not true since Pinchasik describes only connectors with multiple bends. Each of those bends will behave differently when the Pinchasik stent encounters a curve – resulting in a non-uniformly sized

“cell”. Accordingly, for this additional reason, applicants respectfully request withdrawal of this rejection.

In the alternative, the Examiner suggests that “the cells will still be generally uniformly sized in the bend when the bend is small since any effect the bend would have on the cell size would be small due to the smallness of the bend.” Applicants respectfully disagree since the scale or smallness of a part or component does not negate uniformity of cell size at the cell level. Thus, the size or scale of the claimed combination cannot be used as an argument for obviousness.

As to claim 46, which ultimately depends from claim 42, it is axiomatic that when an independent claim is in condition for allowance, any narrower claim which depends from that independent claim is also allowable. As explained above, applicants believe that claim 42 is not anticipated nor obvious in view of Pinchasik and thus, is in condition for allowance. Therefore, applicants believe claim 46 is allowable and respectfully request withdrawal of the rejection.

With respect to claim 57, and as noted above, Pinchasik describes a stent with rigid sections linked by flexible connectors. Pinchasik fails to disclose first meander patterns and second meander patterns as suggested by the Examiner. Instead, the Examiner has highlighted portions of circumferentially adjacent expanded diamond-shaped cells. Likewise, the Examiner has highlighted portions of longitudinally adjacent diamond-shaped cells along with the flexible connectors that join the rigid sections of the Pinchasik stent. In contrast, applicants’ invention describes discrete first and second meander patterns having loops, interconnected to form a tubular structure connected by flexible connectors. Pinchasik does not describe first and second meander patterns, but rather a stent with rigid portions joined by flexible connectors.

For all of the foregoing reasons, applicants respectfully request that the Examiner withdraw the rejection.

4. CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 52-56, 61, 62, 70 and 71 have been rejected under 35 U.S.C § 103(a) as obvious over Pinchasik et al. (5,449,373) (“Pinchasik”). Applicants respectfully traverse this rejection.

As to claims 52-56, the Examiner states that though Pinchasik “fail[s] to disclose the loops 128 of the second meander pattern as having a smaller width (claim 52) or being more flexible than the loops of the first meander pattern (claim 56) ... it is old and well known in this art to reduce the width of a hinged area of a stent where bending is desired in order to obtain the advantage of facilitating such bending.”

With respect to claim 52 however, Pinchasik teaches away from applicants’ present invention by using multiple bends in the connector for flexibility. It is against reason for one skilled in the art to use a small width in a connector, as claimed by applicants, because one skilled in the art would have apprehension that the smaller width may cause failure or damage during bending. Furthermore, with respect to claim 56, Pinchasik does not teach or suggest “at least some of said loops of said second meander patterns are more flexible than the loops of said first meander patterns” because Pinchasik teaches and describes only uniform connector width.

As to claims 61, 62, 70 and 71, the Examiner explains that while Pinchasik fails to disclose medicine on the stent, “it is old and well known in this art to include medicine coatings on stents in order to obtain the advantage of facilitating the directing of the medicine directly to the target site.” However, as explained by applicants above with respect to claims 57 and 66,

Pinchasik fails to describe each and every limitation such as, for example, first and second meander patterns, in the manner claimed by applicants. The addition of medicine to the stent does not remedy the deficiencies of Pinchasik.

For all of the foregoing reasons, applicants believe all pending claims are in condition for allowance and respectfully request that the Examiner withdraw the rejection.

5. DOUBLE PATENTING REJECTIONS

Claims 42, 44-49 and 51-72 are rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-41 of U.S. Patent No. 6,635,084, claims 1-83 of U.S. Patent No. 6,461,381, claims 1-64 of U.S. Patent No. 5,972,018, claims 1-29 of U.S. Patent No. 5,843,120, and claims 1-31 of U.S. Patent No. 5,733,303. The nonstatutory double patenting rejection is traversed by applicants, however, solely for the purpose of expediting the patenting process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (September 8, 2000), a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) is attached disclaiming the terminal part of any patent granted that would extend beyond the expiration date of U.S. Patent Nos. 6,635,084, 6,461,381, 5,972,018, 5,843,120 and 5,733,303.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.


AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 4303-4024US9. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 4303-4024US9. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
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Dated: June 25, 2007

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